

**UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEW HAMPSHIRE**

Resource Management Company

v.

Civil No. 06-cv-366-JD

Frank Gregory

REPORT AND RECOMMENDATION

The parties in this matter appeared before me today on plaintiff's motion for preliminary injunction and petition to attach (document no. 23). Defendant objects (document no. 27). After hearing evidence and argument, I recommend that the motion be denied.

As I explained to the plaintiff during the hearing, I cannot attach property that lies outside of the District of New Hampshire. The defendant has agreed to transfer the funds that are currently in Mr. Gregory's personal trust account into an escrow account held by defendant's counsel's office forthwith. Defendant has further agreed to deposit any further money that would have been deposited into the defendant's private trust account into the newly created escrow account. As a result of defendant's willingness to safeguard these deposits as described,

as well as the plaintiff's current inability, given incomplete discovery, to demonstrate what specific funds should be the subject of an injunction, I find that plaintiff cannot make the necessary showing, today, of the need for a preliminary injunction.¹ If, however, after receiving the discovery ordered today by separate Order, plaintiff believes that a preliminary injunction seeking the deposit of any or all of the legal fees Gregory receives from the Fen-Phen litigation is necessary and authorized, he may renew his motion for a preliminary injunction at that time. Such a renewed request should be limited to the issue of the disposition of prospective legal fees expected to be paid to Gregory.

Any objections to this report and recommendation must be filed within ten (10) days of receipt of this notice. Failure to file objections within the specified time waives the right to appeal the district court's order. See Unauthorized Practice of

¹I apply the reasoning previously applied in my recommendation on plaintiff's first motion for a preliminary injunction to this matter to reach the same result. See Document 19.

Law Comm. v. Gordon, 979 F.2d 11, 13-14 (1st Cir. 1992);
United States v. Valencia-Copete, 792 F.2d 4, 6 (1st Cir. 1986).



James R. Muirhead
United States Magistrate Judge

Date: February 27, 2007

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